UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:12-cv-00385-FDW-DCK

| ARTHUR W. MASSEY, |) | |
|----------------------------------|-------------|-------|
| Plaintiff, |))) | |
| vs. |) | |
| |) | ORDER |
| MICHAEL J. ASTRUE, |) | |
| Commissioner of Social Security, |) | |
| |) | |
| Defendants. |) | |
| |) | |

THIS MATTER is before the Court on Defendant's Motion to Dismiss (Doc. No. 12) and the Memorandum and Recommendation (Doc. No. 18) of the Honorable David C. Keesler recommending that the Motion to Dismiss be denied.

The Federal Magistrate Act states that "a district court shall make a de novo determination of those portions of the report or specific proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1); Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983). "By contrast, in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

Here, neither party filed objections to the Memorandum and Recommendation ("M&R") of the Magistrate Judge, and the time for doing so has well expired. Upon review of the record, the Court ADOPTS the M&R and DENIES Defendant's Motion to Dismiss.

IT IS SO ORDERED.

Signed: May 17, 2013

Frank D. Whitney

United States District Judge